

1 Dailey's company about those sites, correct?

2 A Yes.

3 Q And that's the information that ultimately found its  
4 way into the application. Take a look at Page 203 -- Exhibit  
5 203, Page Four, for example, if you would.

6 MR. SCHAUBLE: Objection as to relevance, Your  
7 Honor.

8 JUDGE CHACHKIN: When you refer to the exhibit, you  
9 better refer to it as a Trinity exhibit or some other exhibit  
10 or else there's going to be confusion on the record.

11 MR. EMMONS: You're correct, Your Honor. Yes. TBF  
12 Exhibit 203, Page Four.

13 MR. GARDNER: Yes.

14 BY MR. EMMONS:

15 Q Do you have that? And do you see that there's a --  
16 about the middle of the page, there is the address and the  
17 name of a site -- of a site owner?

18 A Yes.

19 Q And elsewhere in the engineering, of course, there's  
20 a more specific description of the site.

21 A Yes.

22 Q So you have that information, at least by March 7,  
23 1989, when you signed the application.

24 A Yes.

25 Q Now, these sites were not very far from where your

1 office was, correct? Your offices were in Carlisle or  
2 thereabouts?

3 A Yes.

4 Q And as we've seen on the map, TBF Exhibit 266,  
5 Lancaster and Lebanon are in the same general region as  
6 Carlisle. Is that correct?

7 MR. SCHAUBLE: Objection, Your Honor. What is same  
8 general region? I think TBF -- the map will speak for itself.

9 BY MR. EMMONS:

10 Q You could get -- Mr. Gardner, you could get to  
11 Lebanon or Lancaster without a great deal of difficulty from  
12 Carlisle, could you not?

13 A Yes.

14 Q Now, when you received from Mr. Dailey's company the  
15 information about where the proposed sites were, were you not  
16 interested in checking out those sites before specifying them  
17 in an FCC application?

18 A Yes. I would be interested in doing that.

19 Q Wouldn't that be your normal practice, in fact, to  
20 check out a site, if it were feasible to do so, before you --  
21 before you filed it in an FCC application?

22 A Yes.

23 Q Now, there came a time, did there not, that the FCC  
24 granted these applications for these five construction  
25 permits?

1           A     Yes.

2           Q     And do you recall that that was in July of 1990 when  
3 the FCC granted those?

4           A     I don't remember the specific date.

5           Q     Take a look at TBF Exhibit 208, if you would. Do  
6 you have that in front of you?

7           A     Yes.

8           Q     Do you see that -- do you recognize TBF Exhibit 208  
9 as consistent of the five construction permits for the low-  
10 power station, that is two for Lebanon, two for Lancaster, and  
11 one for Red Lion?

12          A     There are five of them, yes.

13          Q     And take a look at Page One of the exhibit, if you  
14 would, which is the first page of one of the two Lancaster  
15 permits and do you see toward the upper right, the words  
16 "Grant date July 24, 1990"?

17          A     Yes.

18          Q     And do you see right below that the language, "This  
19 permit expires 3 a.m. local time eighteen months after grant  
20 date specified above"? Do you see that?

21          A     Yes.

22          Q     And if we count on the calendar, that would place  
23 the expiration date as January 24, 1992. Is that your general  
24 recollection of when these permits expired?

25          A     Yes.

1           Q     Now, you testified earlier that part of your duties  
2 as FCC liaison for Raystay were to keep copies of licenses and  
3 permits in your files. Is that correct?

4           A     Yes.

5           Q     And did you maintain copies of these five  
6 construction permits in your files?

7           A     They were in files in the Raystay/Waymaker  
8 buildings, yes.

9           Q     Were you the -- were you charged with being the  
10 custodian of those files?

11          A     I believe both George Gardner and I had copies of  
12 them.

13          Q     Now, is it correct that by the end of the eighteen-  
14 month construction permit specified in these permits, Raystay  
15 had not commenced any construction of any of these five  
16 stations?

17          A     You mean physical construction at a site?

18          Q     Correct.

19          A     No construction had begun, correct.

20          Q     And is it correct that in December 1991, just before  
21 these permits were to expire, Raystay filed applications to  
22 extend the four permits for Lancaster and Lebanon?

23          A     Yes.

24          Q     Now, is it also correct that no extension  
25 application was filed for the Red Lion permit?

1 A Correct.

2 Q And would you explain why that was?

3 A At that time, I believe Lee Sandifer was working  
4 with somebody, who eventually I learned was Dennis Grolman, to  
5 transfer that permit to him or his company.

6 Q For the record, Grolman is spelled G-R-O-L-M-A-N?

7 A I believe it is.

8 Q Now, were you aware of an application filed by  
9 Raystay in the summer of 1991 approximately to modify the Red  
10 Lion permit?

11 MR. SCHAUBLE: Objection, Your Honor.

12 JUDGE CHACHKIN: Overruled.

13 MR. SCHAUBLE: I don't think -- there's an incorrect  
14 predicate in that question, Your Honor.

15 JUDGE CHACHKIN: What's the incorrect predicate?

16 MR. SCHAUBLE: The application -- it's a complicated  
17 situation, but the application was not filed by --

18 MR. EMMONS: All right. Let me -- I'm not trying to  
19 confuse this and I guess I don't know the matter to which  
20 Counsel Schauble is speaking, but let me ask the witness.

21 BY MR. EMMONS:

22 Q Mr. Gardner, are you aware that an application was  
23 filed in about the summer of 1991 to modify the Red Lion  
24 construction permit?

25 A Am I aware now?

1 Q Yes.

2 A I'm aware now, yes.

3 Q When did you become aware of that?

4 A When I received the grant of that application.

5 Q And when did you receive the grant of that  
6 application?

7 A I don't recall.

8 Q Was that approximately sometime in the fall of 1991?

9 A I really have no recollection whatsoever of when I  
10 received it.

11 Q And do you recall that the modified permit as  
12 granted by the FCC contained a new expiration date?

13 A The modified permit was granted to Raystay and I  
14 don't recall looking at the expiration date.

15 MR. EMMONS: We can move on, Your Honor. If this  
16 becomes important, we can get a stipulation, I'm sure, from  
17 counsel on the -- from counsel on the facts of it.

18 BY MR. EMMONS:

19 Q Now, going back to July of 1990, Mr. Gardner, when  
20 the FCC issued the construction permits for the five low-power  
21 stations, were you assigned the responsibility at Raystay for  
22 developing a plan to build and operate those five stations?

23 A No.

24 Q Whose responsibility was that?

25 A George Gardner took responsibility for putting these

1 stations on the air and I'm sure he delegated some jobs  
2 regarding that to other people.

3 Q Well, to whom did he delegate, do you know?

4 A I'm sure of the fact he delegated some of it to Hal  
5 Etsell and I suspect also some to Lee Sandifer since Lee was  
6 helping him run TV 40.

7 Q Now, with respect to Mr. Etsell, would you describe  
8 what Mr. Etsell's role with the company was at that time?  
9 This would be in the frame of the summer or the fall of 1990.

10 A I don't know what Hal Etsell's specific or general  
11 job functions were at specific times.

12 Q Was it your understanding that at least among the  
13 things he did was to work on projects for George Gardner?

14 A Yes.

15 Q And did you become aware at some point in the latter  
16 part of 1990 that Mr. Etsell was working on a plan to  
17 implement the construction and operation of the five new low-  
18 power stations?

19 A I was aware that Hal Etsell was working on creating  
20 a plan to build and operate the five LPTV's, yes.

21 Q And did you discuss the LPTV project with Mr. Etsell  
22 from time to time?

23 A Yes.

24 Q Now, from your discussions with Mr. Etsell about the  
25 LPTV project, do you know whether Mr. Etsell had a view

1 regarding what it would take to make five new low-power  
2 stations economically viable?

3 A Yes.

4 Q What did Mr. Etsell believe would be required to  
5 make the stations economically viable?

6 A I believe he felt that we needed -- Raystay needed  
7 to get carriage of the stations on the existing cable systems  
8 in their coverage area.

9 Q Was that a view with which you agreed?

10 A Yes, for that application and probably for every  
11 application, yes. For every -- yeah. For any application for  
12 use of the LPTV's.

13 Q Now, would you turn to TBF Exhibit 209 which is in  
14 Volume 3C.

15 A I have a 209 in an orange book. Oh, that's  
16 Glendale.

17 Q Turn to the blue volume that has Number 209.

18 A Is this in 3C, you said?

19 Q Yes. TBF Exhibit 209 would be the first exhibit of  
20 Volume 3C. Do you have that in front of you?

21 A Yes.

22 JUDGE CHACHKIN: The witness has it.

23 MR. EMMONS: This is a memorandum dated January 15,  
24 1991 to Brian Sweeney from Harold Etsell, Jr. with courtesy  
25 copies to George Gardner and Lee Sandifer and if you would



1 look at the second paragraph on Page One in the second  
2 sentence. I'm going to read this into the record and ask you  
3 if this is consistent with what you understood Mr. Etsell's  
4 views to be from your discussions with him.

5 JUDGE CHACHKIN: Well, there's no need to read it  
6 through. It's already in the record.

7 MR. EMMONS: All right.

8 BY MR. EMMONS:

9 Q I'm referring to the language that beings, "A  
10 television station must also successfully convince cable TV  
11 companies ..."

12 A What's your question?

13 Q My question is, is that statement in that memorandum  
14 consistent with what you understood from your discussions with  
15 Mr. Etsell to be his view?

16 A Yes.

17 Q Would you turn next to Page -- excuse me, to TBF  
18 Exhibit 210, the next exhibit in the volume. This is a  
19 memorandum entitled Low-Power TV Business Plan dated February  
20 12, 1991 and the record will elsewhere show that this was  
21 authored by Mr. Etsell and let me invite your attention to the  
22 second paragraph on Page One, second sentence which begins,  
23 "To become a viable outlet for area advertisers ..." Would  
24 you read that sentence and tell me if that statement is  
25 consistent with what you understood to be Mr. Etsell's view

1 from your discussions with Mr. Etsell?

2 A It is.

3 JUDGE CHACHKIN: Mr. Emmons, it's all right to read  
4 a sentence. I thought you were going to read the entire  
5 paragraph. I have no objection to reading an individual  
6 sentence.

7 MR. EMMONS: Thank you, Your Honor.

8 BY MR. EMMONS:

9 Q Mr. Gardner, turn to the page -- over to Page Two,  
10 if you would, of the -- of this exhibit and focusing your  
11 attention on the first sentence of the first full paragraph on  
12 the page, "To make this concept work, we need to develop the  
13 programming package and staff, a sales staff to sell  
14 advertising, and a marketing plan to sell the concept to cable  
15 operators," and my question to you, Mr. Gardner, is, is that  
16 statement that I've just quoted consistent with what you  
17 understood to be Mr. Etsell's views from your discussions with  
18 Mr. Etsell?

19 A Yes.

20 Q And did you agree with the views that I've -- with  
21 the statements that I've quoted from this exhibit as expressed  
22 by Mr. Etsell? Did you agree with those statements?

23 A Yes.

24 Q Now, is it fair to say then that the entire plan as  
25 conceived by Mr. Etsell insofar as you understood it was

1 premised on cable carriage by the cable operators within the  
2 coverage area of the various low-power stations?

3 MR. SCHAUBLE: Objection, Your Honor. I think we're  
4 getting -- we're climbing over --

5 JUDGE CHACHKIN: Overruled.

6 MR. GARDNER: Certainly both Hal Etsell and myself  
7 felt that we needed to make a great effort to get carriage of  
8 the LPTV's on the existing cable operators in their coverage  
9 area.

10 BY MR. EMMONS:

11 Q Well, in fact, you both felt, did you not, that the  
12 project wouldn't be economically viable unless you did get  
13 carriage by the cable operators?

14 A No, that's not true.

15 Q That's not true? You thought it would be  
16 economically viable even without cable carriage?

17 A I, myself, had alternative suggestions that I felt  
18 could make the LPTV's profitable if this business plan failed.  
19 However, this business plan was one that I felt had the most  
20 opportunity for success.

21 Q And you don't disagree, though, with the statements  
22 that Mr. Etsell has made that we've just been quoting from his  
23 plan, do you?

24 A I don't disagree with them, no.

25 Q And it's true, is it not, that George Gardner felt

1 that if you couldn't get carriage of these low-power stations  
2 by the area cable operators, then Raystay ought to try to find  
3 something else to do with the permits.

4 A Well, that's a hard one to answer because, you know,  
5 you're asking me to tell you what I think George Gardner felt.

6 Q Well, I'm asking you to tell me what you understand  
7 he felt, if you have any basis for an understanding.

8 A I know that I explained to him different concepts  
9 other than this business plan that I felt could make the  
10 LPTV's profitable. So I don't know whether he was focusing  
11 singularly on this business plan or was open to suggestions --  
12 alternative suggestions which might not require the carriage  
13 of the LPTV's on existing cable systems.

14 Q Well, did you ever hear George Gardner express the  
15 view that these low-power stations could be economically  
16 viable if they weren't carried on cable?

17 A I believe that was a viewpoint that I held and  
18 expressed to him and I did not hear him disagree with that  
19 viewpoint.

20 Q Now, at the time of the -- around the fall of 1990,  
21 after these construction permits were granted, it is correct  
22 to say, is it not, that TV 40 was not operating profitably?

23 A Correct.

24 Q And would it be correct to say -- in fact, to go so  
25 far as to say that it was losing a huge sum of money?

1 A Correct.

2 Q If you know. Correct, okay. And it was correct,  
3 was it not, that TV 40 was not able to attract any significant  
4 over-the-air audience?

5 A I would disagree with that statement. I remember  
6 George Gardner bringing me a survey that showed TV 40 had a  
7 significant over-the-air audience at one time.

8 JUDGE CHACHKIN: How do you define significant?

9 MR. GARDNER: Well, he was very happy. He brought  
10 it in and said, "Look. We've got great numbers," and since we  
11 owned radio stations, we knew the difference between bad  
12 numbers and great numbers.

13 JUDGE CHACHKIN: Do you remember anything about the  
14 numbers?

15 MR. GARDNER: I remember being surprised it was so  
16 high.

17 BY MR. EMMONS:

18 Q Was TV 40 carried on any cable system in the area  
19 other than Raystay's own cable system?

20 A Yes.

21 Q It was? Which?

22 A Yes.

23 Q Which?

24 A Flight Systems Cablevision, Kuhnco --

25 Q And when were those -- when did those systems

1 commence to carry TV 40?

2 A I don't know, but they've carried them for quite  
3 some time, and I believe the Sammons Systems carries specific  
4 programs that TV 40 produces, although not the entire TV 40  
5 program day.

6 Q Nonetheless, it is true, is it not, as you've  
7 testified, that TV 40 was losing money?

8 A It was.

9 Q And was it not the concept to expand with these new  
10 low-power stations, these five new ones, to expand the Raystay  
11 low-power operation in the hope of making the whole thing  
12 profitable?

13 A Could you say that again?

14 Q Wasn't the concept -- since TV 40 was losing money,  
15 wasn't the concept for these new stations to expand the entire  
16 operation to a regional operation and thereby hope to turn the  
17 operation from a money-losing proposition into a money-making  
18 proposition?

19 A I'd say that's a reasonable way of looking at it,  
20 although possibly not the only way.

21 Q Now, did Mr. Etsell, from your understanding and  
22 your discussions with him, develop a programming concept for  
23 this regional network of stations?

24 A Hal and I discussed a number of possible programming  
25 concepts, yes.

1 Q And was the concept to create a six-station network  
2 that would include TV 40 plus the five new stations?

3 A Generally, yes.

4 Q And this would be a regional network -- we've seen  
5 the map, so this essentially would be regional coverage,  
6 although as you've explained, there might be some gaps by  
7 reason of terrain and so forth?

8 A Yes.

9 Q And the coverage would encompass the  
10 Carlisle/Harrisburg area with TV 40 plus the Lancaster area,  
11 plus the Lebanon area, plus the Red Lion and York area,  
12 correct?

13 A Yes.

14 Q And in terms of programming, the concept was for the  
15 six stations to be programmed similarly, correct?

16 A Yes.

17 Q Now, would you describe the programming that Mr.  
18 Etsell was trying to develop, his programming concept?

19 A You mean generally?

20 Q Yes.

21 A I was generally aware of a programming concept and  
22 whether it came from Hal Etsell or George Gardner, I can't be  
23 sure. However, that concept was to have TV 40 be the  
24 originating station for the network and to create regional  
25 programming for each of the smaller -- for each of the cities

1 such as Lebanon, Lancaster, that might be put into a day part  
2 for that specific facility. But the general, overall  
3 programming would come from TV 40 except for those specific  
4 day parts that were excluded for local programming, local to  
5 that particular community.

6 Q So there would be local inserts at the five outlying  
7 stations.

8 A Yeah. For instance, if you had a seven to ten p.m.  
9 timeblock, you might have Carlisle High School wrestling on TV  
10 40, Lancaster High School wrestling on the Lancaster facility,  
11 and Lebanon basketball -- high school basketball on the  
12 Lebanon facility. But then you would revert to the overall  
13 network concept.

14 Q And the general network programming would be what  
15 sort of programming?

16 A We discussed many concepts of what might work there.  
17 Hal had a number of ideas which he discussed with cable  
18 operators and so did I.

19 Q Did Mr. Etsell, to your knowledge, have the strategy  
20 for pitching this concept to cable operators and if so, what  
21 was the strategy?

22 A I'm not sure I understand your definition of  
23 strategy.

24 Q Well, you've testified that Mr. Etsell felt it was  
25 essential to have cable carriage of the low-power stations and



1 so my question is do you know what Mr. Etsell said, if  
2 anything, to cable operators to persuade them to carry the  
3 stations that Raystay was proposing to build?

4 A Generally I knew that you would have to convince the  
5 cable operators that the new stations would bring programming  
6 to their customers that they would find, you know, interesting  
7 and want to have on, you know, on their cable system, and that  
8 it would have to generally show the cable operators that they  
9 could make more money by choosing to carry our LPTV's rather  
10 than some other choice for their limited openings on their  
11 cable system.

12 Q And that was the nub of the problem, was it not,  
13 with the cable operators, is that you had to persuade them to  
14 drop some service that they were presently carrying in order  
15 to pick up these proposed low-power stations?

16 A I never looked at it as dropping something, rather  
17 than as adding these the next time an opening became  
18 available.

19 Q Or is adding them in preference to adding something  
20 else that might be available to a cable operator?

21 A Correct.

22 Q Now, how was this network of six stations, that is  
23 TV 40 plus the five new ones, how was that -- how were they to  
24 be interconnected in terms of physically?

25 A I know of at least two ways that it could be done --

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1 three ways and I know George Gardner had a couple of ideas of  
2 his own.

3 Q Did that involve microwave relay?

4 A One did, yes.

5 Q What did others involve, what other concepts were --

6 A You could do it by hard wire and George Gardner was  
7 of the opinion that it could be done using the facilities of  
8 the existing LPTV's.

9 Q You say the existing LPTV's. You're referring to  
10 what, TV 40?

11 A TV 40.

12 Q And that was the only existing one, wasn't it?

13 A Yes. But once they were all up and built, TV 40  
14 could relay to Lancaster, Lancaster could relay to Lebanon.

15 Q So they would be interconnected in some fashion,  
16 whether by microwave or by wire or something?

17 A Over the air

18 Q Over the air.

19 A When I say George Gardner was of that opinion, I  
20 remember that idea being floated and my recollection is it  
21 came from George Gardner.

22 Q Now, there came a time in January 1991, did there  
23 not, that Raystay began negotiating with a man named  
24 Fenstermacher, F-E-N-S-T-E-R-M-A-C-H-E-R?

25 A I know that Raystay negotiated with Mr.

1 Fenstermacher. I don't know when it started.

2 Q Would you turn in your volume of exhibits to TBF  
3 Exhibit 212? Do you have that?

4 A Yes.

5 Q This is a letter dated January 14, 1991 addressed to  
6 George Gardner signed by R.L. Fenstermacher on letterhead of a  
7 company called Alternatives, Virginia and my question to you  
8 is did you see this letter at about the time of it's date?

9 A I don't recall seeing this letter at about the time  
10 of it's date.

11 Q Do you see, in looking at it now, that this letter  
12 constitutes a proposal by Mr. Fenstermacher to George Gardner  
13 that relates to the low-power stations of Raystay?

14 A Yes.

15 Q Now, were you called upon to review the proposal  
16 stated in that letter?

17 A I don't recall being asked to review the proposal  
18 stated in this letter, but I subsequently did review a  
19 proposal from another company owned by Mr. Fenstermacher.

20 Q And that -- was that company Quality Families  
21 Company?

22 A Yes. I believe that's the name.

23 Q Before we get to that, though, let me ask you to  
24 turn to TBF Exhibit 213. Do you have that?

25 A Yes.

1 Q Now, this is a handwritten note dated January 17,  
2 1991 addressed to David and signed Dad and let me ask you if  
3 you -- first if you recognize the handwriting on that note?

4 A Yes.

5 Q Is that George Gardner's handwriting?

6 A It appears to be.

7 Q And so was this a note from George Gardner to you?

8 A It appears to be, yes.

9 Q Now, would you see -- do you see Paragraph Number  
10 One that says, "Please review these proposals. Have two  
11 copies made"?

12 A Yes.

13 Q Do you know what proposals that refers to?

14 A In preparing for these hearings, I've been made  
15 aware that this note refers to Mr. Fenstermacher's proposals.

16 Q And do you see that the -- in the second paragraph  
17 of the note, it says, "Pass your comments to Hal with the copy  
18 of agreements." My question is, is the Hal referred to there  
19 Mr. Hal Etsell?

20 A I believe it is, yes.

21 Q And then the third paragraph of the note says, "Give  
22 me a copy of the proposal and your comments," and my question  
23 to you is did you review the proposal for the purpose of  
24 submitting your comments to George Gardner?

25 A The proposal being the letter we just previously

1 read?

2 Q Well, you've, I think, testified that you have come  
3 to understand that the proposals referred to in Paragraph One  
4 of this note were the proposals contained in TBF Exhibit 212  
5 which is Mr. Fenstermacher's letter of January 14, 1991 and if  
6 that's the case, then my question is did you, in fact, review  
7 the proposals in Mr. Fenstermacher's letter of January 14,  
8 1991?

9 A As I said, I don't recall seeing this letter until  
10 recently, Letter Number 212. However, I believe there were  
11 some proposals accompanied it and I believe those are the  
12 proposals I've reviewed.

13 Q And then would you turn to TBF Exhibit 214? Do you  
14 have that before you?

15 A Yes.

16 Q This is a handwritten note dated January 23, 1991  
17 and my question is do you recognize that note, also? I'm  
18 referring to the writing on the upper half of this note as  
19 being George Gardner's handwriting.

20 A Yes, I do.

21 Q And do you see the initial G that appears below the  
22 first -- about the halfway point on the page?

23 A Yes.

24 Q And is that -- to your understanding, is that George  
25 Gardner's signature of his initials?

1           A     It appears to be, yes.

2           Q     And do you understand that this is a note from  
3 George Gardner to Hal Etsell?

4           A     It appears to be, yes.

5           Q     Now, would you turn to Page Two of the same exhibit?  
6 Do you have that?

7           A     Yes.

8           Q     This is a handwritten note date January 22, 1991 and  
9 my first question, Mr. Gardner, is, is that your handwriting?

10          A     It appears to be, yes.

11          Q     And is that your signature at the bottom of the  
12 page?

13          A     Yes.

14          Q     And do the statements made in this note -- the  
15 comments made in this note constitute your comments on Mr.  
16 Fenstermacher's proposal?

17          A     They appear to, yes.

18          Q     And did you submit these comments to George Gardner?

19          A     I would expect that I would have, yes.

20          Q     Now, at any time, did you participate in  
21 negotiations with Mr. Fenstermacher for any proposals?

22          A     I don't recall ever having any conversations with  
23 Mr. Fenstermacher.

24          Q     Now, the record is going to show that negotiations  
25 were conducted with Mr. Fenstermacher by Raystay and

1 ultimately reached a point of signed contracts with Mr.  
2 Fenstermacher and my question to you is -- you've told us that  
3 you were the contracts manager for Raystay, correct?

4 A Yes.

5 Q And you've also now testified that you did not  
6 participate in any negotiations with Mr. Fenstermacher and my  
7 question is do you know why, in light of the fact that you  
8 were the contracts manager, you were not called upon to  
9 negotiate with Mr. Fenstermacher over his proposals?

10 A I don't know why, no.

11 Q Do you know who personally did negotiate with Mr.  
12 Fenstermacher?

13 A I believe both George Gardner and Lee Sandifer  
14 worked with Mr. Fenstermacher.

15 MR. EMMONS: Your Honor, this is a convenient break  
16 point.

17 JUDGE CHACHKIN: All right. We'll be in recess  
18 until 1:45.

19 (Whereupon, a lunch recess was taken from 12:33 p.m.  
20 until 1:55 p.m.)

21

22

23

24

25

A F T E R N O O N   S E S S I O N

BY MR. EMMONS:

Q     Mr. Gardner, would you turn to TBF Exhibit 216 in the blue volume, 3C? Do you have that?

A     Yes.

Q     This is a document dated March 26, 1991 addressed to George Gardner in the form of an agreement and principal or a letter of intent and my first question to you is -- you see that there are two signatures on that first page there, one on the left which appears to be Mr. Fenstermacher, one on the right that appears to be Lee Sandifer.

A     Yes.

Q     Do you see those? Do you recognize the signature on the right as being the signature of Lee Sandifer?

A     It appears to be Lee Sandifer's signature.

Q     Were you aware of the signing of this document at around the time it was signed?

A     I was aware that it was signed sometime in the spring of 1991.

Q     And is it your understanding that at that time, Mr. Sandifer was a vice-president -- or the vice-president of Raystay Company?

A     I don't recall when I was made aware he was a vice-president.

Q     Do you see the handwritten sentence on the lower



1 half of the page after the asterisk? Do you see that?

2 A Yes.

3 Q Do you recognize whose handwriting that is?

4 A No, I really don't.

5 Q Would you turn to Page Two of the document, the  
6 sheet entitled Raystay Location Data? Do you see the left-  
7 hand column as being a list of cities and the next column,  
8 just to the right of that, as a list of call signs?

9 A Yes.

10 Q And are those call signs the call signs of the five  
11 low-power television stations with which Raystay then held  
12 construction permits?

13 A Well --

14 Q The first five. The first five listed, that is  
15 Lancaster, Lancaster, Lebanon, Lebanon, and Red Lion.

16 A I don't remember the call signs.

17 Q Let me ask you with respect to Carlisle,  
18 Pennsylvania, the last item in that column, with the call sign  
19 W40AF. That refers, does it not, to what we've been calling  
20 TV 40?

21 A Yes.

22 Q Now, would you turn -- there are a series of  
23 exhibits starting at TBF Exhibit 218 through 221 and would you  
24 look just generally at those -- I have no detailed questions,  
25 but I have some general questions to ask you about them. So